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EXAMINER

WONG, JOSEPH D

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/571,075	Applicant(s) ALBARRAN MOYO ET AL.	
	Examiner JOSEPH D. WONG	Art Unit 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 Sep 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>20060308</u> |

DETAILED ACTION

Specification

Instant specification paragraph [2] is objected as published recites “infra red” which is believed to be a spelling informality meaning "infrared".

Information Disclosure Statement

Instant specification paragraph [10] as published cites: "Embedding XMP Metadata in Application files", June 2002, Adobe Systems Incorporated, 345 Park Avenue, San Jose, Calif. 95110-2704, USA. However, the above citation does not conform to the formal requirements of a legible copy and IDS as codified in 37 CFR 1.97-1.98. Appropriate conformance is required.

Instant specification paragraph [2], page 1, line 28 is objected as reciting a link to other documents listed at the web address www.anoto.com which suggests an informal information disclosure statement.

See PTO-892, page 1, reference X1, wherein the Examiner cites a copy of a web page snapshot from archive.org of what www.anoto.com as logged on April 2003 into the Internet Archive also prior to the date of invention which may render this objection overcome if consistent with what the Applicant intended to submit via IDS.

The listing of references within a specification or by pointing to a web site is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

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Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b). If needed, Applicant should seek approval of a terminal disclaimer far in advance of any foreseeable deadlines. A delay may occur if waiting near any specific prosecution deadline to approve a terminal disclaimer as they are evaluated by another part of the Office.

This ground of rejection may be overcome by a terminal disclaimer or by the addition of a non-obvious claim amendment.

Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 42-44 of copending Application No. 10/571,076. Although the conflicting claims are not identical, they are not patentably distinct from each other because a “digital document” is an obvious variation of a “data file” among other comparisons.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Instant App. 10/571,075	Alleged ODP 10/571,076
<p>15. A data structure which defines an electronic document,</p> <p>the data structure comprising first and second substantially separate portions of data;</p> <p>the first portion of data defining the content of the document and the second portion comprising data relating to a pattern of position identification markings such that when the electronic document is printed a pattern reading device,</p> <p>such as a pen, is able to determine its position relative to the position identification markings,</p>	<p>42. A system comprising a plurality of electronic records and associated pattern information,</p> <p>each electronic record corresponding to a different digital document which comprises content and at least one pattern of position identification markings,</p> <p>the digital document having been modified prior to printing and each electronic record comprising information from which a copy of the modified digital document corresponding to that record can be reproduced which includes substantially the same content as the modified digital document.</p> <p>44. The system of claim 42 in which the electronic records and associated pattern</p>

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<p>the data structure comprising a single data file with the first and second data portions being embedded within the data file.</p>	<p>information are stored on a server in such a way that the patterns can be searched upon receipt of pattern information from a digital pen used to read a digital document so as to identify which, if any, of the records corresponds to the digital document read by the pen.</p> <p>43. The system of claim 42 in which each electronic record and its corresponding pattern comprise separate, related, files or a single file.</p>
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Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-33 are rejected for reciting vague and indefinite language of “such as”.

Regarding claims 15, 16 and 33, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 32 recites “content receiving means for” and “data structure means for” which commingles structure and function together while attempting to invoke means-plus function

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language yet it is unclear specifically which embodiment or elements the Applicant is necessarily and always referring to. Note these commingling and non-unique mappings are believed vague and indefinite under present evaluation of precedent and policy guidance. For purposes of Examination, the Examiner will loosely map to Fig. 4 or Fig. 6, items 802, 804 as best understood as instant claim 32's definiteness, clarity and scope impair the invocation of 35 USC 112, 6th paragraph as the sufficiency of the structural correlation or distinctiveness appears an open question because the primary physical structure observed in Fig. 3 is designated prior art. Appropriate clarification or correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-34 are rejected for being directed towards nonstatutory subject matter.

Claim 15 is directed to a data structure which defines an electronic document. However, the instant invention is directed toward printed matter such as graph paper as indicated on instant Fig. 2 or defined within the prior art of George, US 6,065,021, Col. 6, Lines 16-25. Furthermore, the method does not necessarily and always tie to a physical article because the claim puts the "pen" behind a "such as" clause thereby causing the Examiner to take the position that the physical article of a pen is not required to meet the claim. No other physical article is shown to be tied to the claim. Therefore claim 15 stands rejected.

Note the above basis of rejection may be overcome

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Claim 32 is directed to an application adapted to produce an electronic document. Instant specification paragraph [10] as published specifically refers to the "Application files" as functional descriptive matter or software per se. Neither is statutory under present evaluation. Instant specification paragraph [43] as published specifically exemplifies the application as "Adobe Acrobat Reader", a "word processing package such as 'Word'", "database package such as 'Access'", and "spreadsheet package such as 'Excel'" which are ordinarily and commonly understood to include references to software per se. An application is not shown to be one of the recognized statutory classes of a "system" or "apparatus", "method or process", "product" or "manufacture", or "composition of matter". Therefore dependent claims are rejected under similar reasoning.

Note the above basis of rejection may be overcome under present evaluation if amended to a recognized statutory class. If amended to a system or method, Applicant may clearly and specifically require a physical article within the body of the claim.

Applicants can look to MPEP 2106.01-2106.02 (July 2008), Clarification of Processes under 35 USC 101, Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, Instant Specification, and contemporary case law with a matching fact pattern for further suggestions that may be helpful in overcoming these rejections.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-22, 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by George., (US 6,065,021), hereinafter George.

As to claim 15, George teaches a data structure which defines an electronic document (Title, "alignment of graphical elements in electronic document"), the data structure comprising first and second substantially separate portions of data (Fig. 1b, items 92, 94, 96; Figs. 2-6a, 6b); the first portion of data defining the content of the document and the second portion comprising data relating to a pattern of position identification markings such that when the electronic document is printed a pattern reading device (Fig. 1b; Fig. 2, pattern is the grid), such as a pen (Col. 2, Lines 50-55, "pen"), is able to determine its position relative to the position identification markings (Fig. 2, Col. 6, Lines 16-25, "defining grid 109 of horizontal and vertical lines 110...similar to graph paper...evaluates the grid lines as candidates...line engine produces as an output a list of all possible alignments"), the data structure comprising a single data file with the first and second data portions being embedded within the data file (Col. 6, Lines 35-40, "added to the list", wherein the list is a single object fully enveloped by the data file as seems consistent with reading in light of an interpretation of instant specification Fig. 4, item 602, "PDF" and paragraph [21] of JPEG and SVG which are files fully containing graphical line data).

As to claim 16, George teaches a data structure which is written in such a form that the data structure can be converted from one format to other formats (Col. 3, Lines 47-53, "three distinct formats are selectable", where an alignment is an optional modification as evinced by

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candidate alignments discussed in Col. 4, Lines 60-64) without losing any of the information from the document (negative limitation met by absence of the words “loss”, “lost”, “losing”, “lossily” and “lossy”).

As to claim 17, George teaches a data structure in which the second portion of data comprises metadata and in which the data structure includes one or more controls which control the way in which the second portion of data is converted between formats to preserve the pattern (Figs 7a-7b).

As to claim 18, George teaches a data structure in which the second portion of data comprises metadata and in which the data structure includes one or more controls which control the way in which the second portion of data is converted between formats to preserve the pattern (Figs. 7a-7b; Col. 8, Lines 45-52).

As to claim 19, George teaches a data structure in which the data in the second portion comprises any one or more of the following: data from which an algorithm or the like can generate the pattern (Fig. 2); co-ordinates or other metadata identifying the portion of the position identification marking (Figs. 7a-7b; Col. 8, Lines 45-52).

As to claim 20, George teaches a data structure in which the data in the second portion comprises any one or more of the following: data from which an algorithm or the like can generate the pattern (Fig. 2); co-ordinates or other metadata identifying the portion of the position identification marking (Figs. 7a-7b; Col. 8, Lines 45-52).

As to claim 21, George teaches a data structure in which the data in the second portion comprises any one or more of the following: data from which an algorithm or the like can

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generate the pattern (); co-ordinates or other metadata identifying the portion of the position identification marking (Figs. 7a-7b; Col. 8, Lines 45-52).

As to claim 22, George teaches a data structure in which the data in the second portion comprises any one or more of the following: data from which an algorithm or the like can generate the pattern (); co-ordinates or other metadata identifying the portion of the position identification marking (Figs. 7a-7b; Col. 8, Lines 45-52).

As to claim 32, George teaches an application adapted to produce an electronic document (Title, "alignment of graphical elements in electronic document"), the application comprising: content receiving means for receiving the content of the electronic document (Fig. 1b, items 92, 94, 96; Figs. 2-6a, 6b), pattern receiving means for receiving data defining a pattern of positional markings allocated to at least a portion of the document (Fig. 2, Col. 6, Lines 16-25, "defining grid 109 of horizontal and vertical lines 110...similar to graph paper...evaluates the grid lines as candidates...line engine produces as an output a list of all possible alignments"); and data structure generating means for generating a data structure defining the electronic document (Col. 6, Lines 35-40, "added to the list", wherein the list is a single object fully enveloped by the data file as seems consistent with reading in light of an interpretation of instant specification Fig. 4, item 602, "PDF" and paragraph [21] of JPEG and SVG which are files fully containing graphical line data) which data structure comprises first and second substantially separate portions of data (Fig. 2, Col. 6, Lines 16-25, "defining grid 109 of horizontal and vertical lines 110...similar to graph paper...evaluates the grid lines as candidates...line engine produces as an output a list of all possible alignments"), the first portion of data defining the content and the second portion of data relating to the pattern (Fig. 1b, items 92, 94, 96; Figs. 2-6a, 6b).

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As to claim 33, George teaches a method for generating an electronic document comprising creating an electronic file and storing in that file data and metadata (Title), the data defining at least some content and the metadata relating to a pattern of position identification markings arranged to allow a device (Fig. 1a), such as a pen (Col. 2, Lines 50-55, “pen”), to determine its position within the position identification markings (Fig. 2, Col. 6, Lines 16-25, “defining grid 109 of horizontal and vertical lines 110...similar to graph paper...evaluates the grid lines as candidates...line engine produces as an output a list of all possible alignments”), the electronic file capable of generating an electronic document (Fig. 7a, item 752, “output associated cursor position”).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over George in view of Lemon et al, (US 2003/0140311), hereinafter Lemon.

As to claim 23, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

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However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

[0036] Another feature aggregator (e.g., feature aggregator 520 of FIG. 5) can perform geometric analysis on the document based on x,y coordinate information for the text in the document (e.g., a PDF document). The layout of the lines and characters in the document can provide important information about the document structure. A geometric analysis feature aggregator can be used to derive spacing information in order to identify columns and rows of data and add higher level XML tags to the document which describe these features. Since the geometric analysis feature aggregator does not rely upon font analysis information, it can ignore those XML tags that were inserted by the font analysis feature aggregator.

George and Lemon are analogous art pertinent to the problem to be solved. A skilled artisan would have been motivated to combine George and Lemon because it provides for learning how to extract from semi-structured text as discussed in Lemon, Paragraph [9].

Therefore at the time of invention, it would have been obvious to a person having ordinary skill in the art to combine George and Lemon because it provides for learning how to extract from semi-structured text as suggested in Lemon, Paragraph [9].

As to claim 24, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the

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content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 25, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 26, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 27, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and /

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or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 28, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 29, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the

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content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 30, George does not expressly teach a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML.

However, Lemon teaches a data structure in which the at least one portion providing the position of the position identification markings within the document and / or data identifying the content of the position identification marking in the document is provided in XML (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

As to claim 34, George does not expressly teach a method in which a file embedding mechanism is used to embed metadata, generally XML metadata, within the electronic document.

However, Lemon teaches a method in which a file embedding mechanism is used to embed metadata (paragraph [36], “x,y coordinate”), generally XML metadata ([36], “XML tags”), within the electronic document (paragraph [36], “x,y coordinate...columns and rows...add...XML tags to the document”).

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over George in view of Krishnaprasad et al, (US 2002/0099687), hereinafter Krishnaprasad.

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As to claim 31, George does not expressly teach a data structure in which a schema, generally an XML schema, is provided.

However, Krishnaprasad teaches a data structure (paragraph [57], “structure of the XML”) in which a schema (paragraph [57], “XML-schemas”), generally an XML schema (paragraph [57], “XML-Schemas”), is provided.

[0057] As can be seen from the above example, in addition to defining the structure of the XML result set (XML document), XML-Schemas also define the type of the data and constraints, if any, on the data.

George and Krishnaprasad are analogous art pertinent to the problem to be solved. A skilled artisan would have been motivated to combine George and Krishnaprasad because it provides for retrieval of relational data to XML data by using a canonical mapping as discussed in Krishnaprasad, Abstract.

Therefore at the time of invention, it would have been obvious to a person having ordinary skill in the art to combine George and Krishnaprasad because it provides for retrieval of relational data to XML data by using a canonical mapping as suggested in Krishnaprasad, Abstract.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Wong whose telephone number is 571-270-1015. The examiner can normally be reached on Mondays through Fridays from 10 AM - 6 PM.

Applicant initiated interviews may be formally requested in advance by faxing a completed PTO-413A form to the Examiner's personal fax number at 571-270-2015. Form

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PTO-413A is used by the Examiner to prepare for any proposed interview. A detailed agenda listing should be attached including any proposed claim language and/or arguments that will be presented. This form is used to determine whether any proposed interview would advance prosecution and fit within a prescribed time limit.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JDW/

Asst. Examiner, Art Unit 2166

22 May 2009

/Isaac M. Woo/

Primary Examiner, Art Unit 2166